

DOCUMENT RESUME

ED 164 201

RC 011 027

TITLE Promises to Keep: The Continuing Crisis in the Education of Migrant Children.

INSTITUTION National Child Labor Committee, New York, N.Y.

PUB DATE Jan 77

NOTE 62p.; Not available in hard copy due to the Committee's preference

EDRS PRICE MF-\$0.83 Plus Postage. HC Not Available from EDRS.

DESCRIPTORS Access to Education; *Accountability; Educational Finance; *Equal Education; *Federal Legislation; Federal State Relationship; *Migrant Child Education; Migrant Workers; Parent Participation; Power Structure; *Program Administration; Program Coordination; *Program Effectiveness; Self Concept; Social Discrimination; State Federal Aid; Student Records; Transfer Students; Transient Children

IDENTIFIERS *Migrant Student Record Transfer System

ABSTRACT

Because the 1966 Programs for Migratory children amendment to Title I of the Elementary and Secondary Education Act has been improperly implemented and systematically subverted, and standards of administration and accountability have been disregarded, equal educational opportunity for migrant children is still not a reality. There are inherent difficulties in the multilevel administrative structure composed of the U.S. Office of Education, the state education agencies, and the local education agencies. Each level has its own responsibilities to the Title I system. In addition to the problems of federal staffing shortages, inordinate amounts of paperwork, funding competition and mismanagement at all levels, abuses of the Migrant Education Program are rampant in many other areas. There are bureaucratic tangles, difficulty in determining eligibility for migrant programs, inconsistent and incomparable evaluation standards, misapplication of funds, little appropriate teacher training, lack of emphasis on preschool and parent programs, and a tendency to hide the truth from the public. Responsibility for this failure rests on Congress, the Office of Education, and state and local education agencies. Congress must hold hearings to develop a plan for legal compliance and amend the Act to assure maximum service to migrant children. (SB)

* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *

ED164201

RC 01 1027

PROMISES TO KEEP

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

2

"PERMISSION TO REPRODUCE THIS
MATERIAL BY MICROFICHE ONLY
HAS BEEN GRANTED BY

Ethel Morris

TO THE EDUCATIONAL RESOURCES
INFORMATION CENTER (ERIC) AND
THE ERIC SYSTEM CONTRACTORS."

Promises to Keep:

**The Continuing Crisis
In the Education of
Migrant Children**

**National Child Labor Committee
145 East 32nd Street
New York, New York 10016**

Copyright© 1977 National Child Labor Committee
Library of Congress Catalog Card Number: 76-56895

Cover photo: Tom Policano

TO THE CHILDREN

National Child Labor Committee

The National Child Labor Committee (NCLC) is a national private, non-profit organization founded in 1904 and chartered by an Act of Congress in 1907, to fight against the exploitation of children in industry and agriculture and for free public education. In 1959 it organized the National Committee on Employment of Youth (NCLC's Youth Employment Division) when it became clear that an increasing proportion of young people of employment age were experiencing serious problems in making the transition from school to work. This division concentrates exclusively on the difficulties youth face in preparing for, finding and adjusting to employment.

For more than fifteen years, NCLC has been actively involved in the conception and development of innovative programs in youth employment, including the Neighborhood Youth Corps, summer youth employment programs, and the upgrading of paraprofessional workers in Early Childhood Education, Occupational Therapy, and Addiction Services, among others. The agency is a constant advocate for youth in the employment field, testifying before Federal and state legislatures, conducting conferences, instituting studies, issuing reports and publications—including its quarterly, *New Generation*—and providing consulting and coordinating services to communities and organizations. The agency also has a full program devoted to the education of the children of migrant farmworkers.

NCLC is run by a Board of Trustees, including citizens of all ages from business, labor, education, and the voluntary sector.

Board of Trustees

Ronald H. Brown, President	Jane S. Dahlberg	Leonard J. Mestas
Ronald Corwin, Vice President	Thorold J. Deyrup	Sam Rabinowitz
Jerome M. Rosow, Vice President	Nathan Glassman	Robert D. Rowan
Alfonso Brandon, Treasurer	Arthur Goldberg	Thomas Rowe
Genevieve Loughran, Secretary	Martin Hamburger	Henry Saltzman
Linda V. Bain	Anna Arnold Hedgeman	McLain B. Smith
Joel Bennett	Richard D. Jackson	Stephen Solis
James Brown, Jr.	Daniel Kruger	Karen Tobin
William Byler	Alexis E. Lachman	Thomas P. Townsend
Felicia Clark	Walter Lawton	Leo Weitz

Honorary Trustees

William H. Bristow	Ernest O. Melby
Kenneth B. Clark	Gardner Murphy
Cameron P. Hall	Mrs. Beardsley Ruml
Mrs. Eduard C. Lindeman	George S. Stevenson, M.D.

FOREWORD

Agriculture is the last big business in the nation in which children are a substantial part of the work force. These children form the last remnant of what used to be a severe child labor problem in America—a problem that the National Child Labor Committee was formed to combat.

Since 1904, the Committee has been an advocate for children, campaigning to protect young people from work-related abuse and deprivation. In the early days of the Committee, field studies were conducted in almost every state and with almost every crop, pinpointing the dangers to children's safety, health, and education, with particular emphasis on the children of migrant farm workers. Children who work in the fields sacrifice their futures both physically and intellectually: as adults they will not be able to compete in any area except migrant farm work, where the demand for workers is slowly decreasing.

The key is education, but these children have been systematically denied their right to equal educational opportunity. The fact that they were the most educationally deprived children in the nation prompted Congress, in 1966, to amend Title I of the Elementary and Secondary Education Act to include programs and services directed specifically at meeting the special educational needs of children of migrant farm workers.

As with all laws, those relating to migrant education are easier to pass than to enforce: failures and abuses are widespread and largely uncorrected. In far too many instances, both the technical content and the spirit of the law are being ignored or subverted. A lack of responsible leadership is reflected at every level of the Migrant Education Program, where malfeasance is unchecked, good programs receive no reinforcement, poorly run programs are renewed year after year, and children remain unserved.

The National Child Labor Committee has spoken out on this issue before. Our 1969 report, *Wednesday's Children*, the first major study of the Migrant Education Program, exposed widespread failures and led to further inquiries by other responsible groups. But even as reports and audits and investigations reveal the program's inadequacies, the inadequacies continue. The passage of the Migrant Education section of ESEA Title I established a direction that must now be pushed to its logical conclusion—it must become possible for the laws to work. This report is addressed to those directly involved in providing equal educational opportunity to all our children, and to the Congress, which must take responsibility for seeing its own mandate carried out.

We are deeply grateful to the Public Welfare Foundation of Washington, D.C., which provided a large share of the funds necessary for NCLC's re-

search and for publication of this report. Space does not permit recognition of all those who gave their time and suggestions in the planning, investigation, and writing of *Promises to Keep*, but we wish to acknowledge the efforts of Attorney Miriam Daniel Guido, whose field research, investigations, and reporting uncovered many of the problem areas; Killian Jordan and Seymour Lesh of NCLC's staff; Joel Seldin who helped organize our thinking and did yeoman's work on editing a mass of material; Susan Pimentel, who did much of the necessary legal research; Karen Tobin, whose contributions to the paper were invaluable; and Henry Saltzman and Stephen Solis, whose guidance contributed greatly to the planning of this report.

JEFFREY NEWMAN,
Executive Director
National Child Labor Committee

New York, N.Y.
January, 1977

CONTENTS

Foreword	i
Introduction	1
Administrative Structure	7
Special Educational Needs	15
Number of Migrant Children	18
Transmittal of Records	20
Eligibility	23
Duration of Eligibility	24
Manner of Funding	25
Misapplication of Funds	27
Program Coordination	30
Model Programs	31
Staff Training	33
Preschool Programs	36
Program Evaluation	38
Bypassing a State	40
Making Documents Public	43
Parent Involvement	45
Conclusion	49
Appendix	51

INTRODUCTION

The labor provided by migrant and seasonal farmworkers is one element necessary for a stable agricultural industry in the United States. This labor has been exploited in a manner that has enabled certain sectors in agriculture to enjoy substantial profits. Neither established labor unions nor new labor organizations have succeeded in altering the exploitation of this labor force. From World War I to today this underpaid and under-represented labor force has contributed to American food abundance while the laborers and their dependents have suffered malnutrition, health problems, educational deprivation and poverty. They have been subjected to some of the harshest housing and labor conditions that the United States has ever known.

Employment for migrant workers is, by definition, seasonal and temporary in nature. To make their work as continuous as possible, migrants travel with the growing season, fanning northward in three main strands through the West, the East, and the broad central sweep of the United States. The migration pattern creates hazards that fan out, like the migrant stream itself, enveloping every aspect of the migrant's life.

The most obvious problem for migrant workers and their families is financial: the typical migrant adult currently earns under \$3,000 a year.¹ In America, farm workers are almost universally exempted both from minimum wage coverage and from unemployment insurance (Special Unemployment Assistance is temporary in nature, difficult to obtain). The need to travel ceaselessly in search of work effectively prohibits welfare assistance: in order to wait out the normal processing time for welfare applications, a migrant family would have to stop in one place, without money, for weeks, when they could be moving and looking for work.

While the problems of migrant workers in agriculture are extreme and deplorable, the impact on their children guarantees that the problems will persist indefinitely—unless significant changes are made. These children, over 500,000 of them,² span ethnic, religious, cultural and racial groups. They include Chicano children in Texas, California and the Midwest; black children in Florida and the Southeast; Puerto Rican children in the Northeast; and white children throughout the nation.

¹U.S. Department of Agriculture.

²This is a conservative estimate. Many migrant program personnel believe that the actual number of migrant children eligible for services under the Act is close to 1,000,000.

Despite the apparent diversity among migrant children, there are many common links that join them: poverty, inadequate health care, sub-standard housing, and astonishingly poor educational achievement. While the nonmigrant student has a 96 percent chance of entering the ninth grade and an 80 percent chance of entering the twelfth grade, the migrant student has a 40 percent chance of entering the ninth grade and only an 11 percent chance of entering the twelfth grade.¹

Most migrant adults as well are poorly educated by American standards, and many do not speak English.² They are therefore ready victims of a farm labor system that exploits them mercilessly for as long as they are useful and then forgets them. It is not surprising that most migrant parents have ambitions for their children's futures that include leaving the migrant stream ("settling out"), and obtaining a good education. But the very facts of migrancy and poverty militate against meaningful educational opportunities for migrant children. Poor nutrition and poor health and health care reduce a child's energy, attention span, and motivation; language problems frequently interfere with progress in school; poverty shows in clothing and equipment, making children feel awkward, conspicuously "different"; community prejudices against migrants are often instilled in local children, leading to harassment of the migrant child; migrant children must often miss school to work or care for siblings, and in many cases must change schools and communities once, twice, or more times every year.

What migrant children have encountered in their succession of new schools has, in the past, been devastating enough to lock the vast majority of them into failure. A child's self-concept, according to Harry Stack Sulli-

¹Exotech Systems Inc., *Evaluation of the Impact of ESEA Title I Programs for Migrant Children of Migrant Agricultural Workers* (Falls Church, Va.: Exotech Systems Inc., 1974) Volume I, p. 8. This is one of the few comprehensive studies of the use of migrant education funds in the ten years since they were first made available. Published under contract for the U.S. Office of Education by a private firm, its findings were in some ways more hopeful with regard to migrant education programs than our own. Nevertheless, we have relied heavily upon it for factual information about conditions in migrant programs.

²In 1970, the average American head of household had completed twelve grades of school, while the average migrant head of household had completed four grades. *Decision Making Framework: Migrant Education* (Seattle: Consulting Services Corporation, 1971).

van, develops from "reflected appraisals of significant others."¹ For poor and minority children in the school system, the reflections they see are likely to be derogatory, unaccepting, patronizing, generally expressive of powerful (if unconscious) negative appraisals. Studies have found that teachers were less favorably inclined toward deprived children even when their school achievements were good,² and that negative self-image is related less to school achievement than to minority status.³

Dr. Jose Cardenas has pointed out that "Mexican-American and Black (migrant) children are culturally different children who are deprived because they are poor."⁴ But culturally biased institutions, through constant attack, can succeed in damaging the fabric of culture, thus transforming cultural difference into cultural deprivation. To prevent this, the National Child Labor Committee stressed in 1971 that "the school must not only tolerate the child's cultural and individual heritage, it must revel in it."⁵

Psychiatrist Robert Coles has studied migrant children closely and extensively, and has documented a tragic fact of migrant life: that migrancy and poverty, in addition to the physical squalor they often generate, are destructive to the personality. Deterioration begins at an early age. According to Coles:

At three or four the children are boisterous, eager,
impatient to experience the next ride, the next

¹A. Harry Passow, Miriam Goldberg, Abraham J. Tannenbaum, *Education of the Disadvantaged* (New York: Holt, Rinehart and Winston, Inc., 1967) p. 386.

²Helen H. Davidson and Gerhard Lang, "Children's Perception of Their Teachers' Feelings Toward Them Related to Self-Perception, School Achievement and Behavior," *Journal of Experimental Education*, December, 1960, pp. 107-118.

³Martin P. Deutsch, *Minority Group and Class Status as Related to Social and Personality Factors in Scholastic Achievement*. Monograph No. 2. (Ithaca, New York: Society for Applied Anthropology, 1960).

⁴Jose A. Cardenas, *An Education Plan for the Denver Public Schools* (San Antonio, Texas: National Education Task Force de la Raza, January 21, 1974) p. 13.

⁵National Child Labor Committee, *Wednesday's Children, A Report on Programs Funded Under the Migrant Amendment to Title I of the Elementary and Secondary Education Act*. (New York: National Child Labor Committee, 1971) p. 55.

camp. Between five and ten those same children experience an ebb of life, even a loss of life. They move along all right; they pick themselves up again and again, as indeed they were brought up to do, as their parents continue to do. They get where they are going, and to a casual eye they seem active enough, strenuous workers in the field. But a change is taking place. Once wide awake, even enterprising, they slowly become dilatory, leaden, slow, laggard and lumpish.¹

At around the age of nine or ten the depression these children experience takes the form of "a kind of self-destructiveness that knows no bounds."²

Partly because of their mobility, but mostly because of their poverty, migrant children are being systematically denied their right to equal educational opportunity. In the mainstream American culture, parents would probably mobilize to combat this sort of systematic deprivation, forcing responsibility and accountability from their governmental systems. Among migrants, however, their very transiency prohibits mobilization and organization. We live in a society which enfranchises its citizens through their place of residence. Most migrants are truly stateless and cannot receive or exercise the political rights that most other Americans take for granted.

In recognition of this long-standing problem, Congress quite properly accepted the responsibility (in November, 1966) for insuring that migrant children shall receive special compensatory educational service designed to protect their right to equal opportunity. Specifically, the Congress amended Title I of the Elementary and Secondary Education Act of 1965 to include provisions for the establishment of programs designed to meet the special educational needs of children of migratory agricultural workers.

The children of migratory agricultural workers present a unique problem for educators. Migratory workers travel from community to community in order to work. They often settle in a single commu-

¹ Robert Coles, Testimony before the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare, *Hearing on the Migratory Subculture*, July 28, 1969 (Washington, D.C.: Government Printing Office, 1969) p. 335.

² *Ibid.*

nity for two months or less. Consequently, their children are seldom in school long enough to participate in school activities; some spend only two to six weeks in any one school district during the harvest season. Well over half of all migrant children are not achieving at their grade level, a substantial number of them are two years or more behind in their schooling.

... The amendment offered by the Committee will permit the Commissioner to make special grants to State educational agencies for the purpose of establishing special education programs for these children. It is expected that the State educational agencies will be imaginative in designing these special programs and that they will cooperate among themselves whenever it is appropriate.¹

But the Act has failed to resolve the critical problems of migrant children, not because it is inherently unworkable, but because it has been improperly implemented or systematically subverted. Nevertheless, its failures are being cited by some vested interests as evidence that the program itself should be abandoned. We cannot allow this to happen; it would result in the further deprivation of these children. Rather, professionalism and national accountability must be added to all programs, and administrators made responsible for standards of accomplishment.

This report concerns itself with the national problem of the education of migrant children—specifically the failure of the Office of Education to implement, monitor and evaluate Title I programs that could provide migrant farmworkers' children an equivalent education while they are part of a mobile, seasonal agricultural work force. Although specific instances of lack of accountability, misuse of funds, and poor administration of Title I funds for migrants are cited throughout the report, it must be recognized that these are only examples. They indicate problems that are national in scope; the rule rather than the exception.

Between 1966 and today, the lack of accountability in this program has resulted in a full decade and another generation of migrant children

¹*Joint Report*, H.R. Rep. No. 1814, 89th Cong., 2nd Sess., (1966), p. 10; Sen. Rep. No. 1674, 89th Cong., 2nd Sess., (1966), pp. 14-15.

ill-prepared to cope with a highly sophisticated and educated society or to be self-sufficient outside an agrarian economic structure. The Migrant Education budget has grown with the number of identified migrant children, from an initial 1966 allocation of \$9 million to a Fiscal Year 1977 allocation of \$131 million. Once the experience of good programs becomes available it may be found that more funds are needed, but the most pressing immediate need is for effective use of existing funds.

To insure that these funds are meeting the needs they are allocated for, no program should be funded without a full understanding of its cost analysis, and its anticipated effectiveness; there must be assurances that goals and performance standards will be achieved for participants in any program that is funded; standards for funding and planning procedures for programs must be such that those affected by the programs are involved in their development, implementation and evaluation; state education departments, instead of enjoying an uncontested monopoly over migrant education funds, should be competing with other possible providers to maximize the availability of the best services.

The clear directives in the 1966 amendments to Title I have been consistently ignored or disobeyed by administrators responsible for implementation; standards of administration and accountability have been largely disregarded. But despite the unacceptable performance so far in the use of special migrant education funds, we still believe that migrant children can be provided educational equity in this nation. This belief is based, however, on the conviction that in addition to providing funds, the Congress can be brought to see that it must assure that the funds are administered responsibly and creatively so that the children will have sound educational opportunities offered through a variety of delivery systems, and access that begins in early childhood.

We recognize that not all of the problems relating to the education of migrant children can be solved by better administration of the Act; many of the problems are deeply embedded in the fabric of our society and require different approaches for resolution. But we must make a start. The proper administration of the Act would be a good-faith demonstration of a fundamental commitment to justice and opportunity for migrant children.

KAREN N. TOBIN
Executive Director
Program Funding, Inc.
Rochester, New York

Administrative Structure

Title I of the Elementary and Secondary Education Act is a massive program—of which Migrant Education is a special part—aimed at providing compensatory services to those children most in need economically. Congress allocates about \$1.6 billion annually for Title I, and these funds reach into almost every school district in the nation. Title I provides for federal grants to state education agencies which in turn provide funding to local school districts. Thus, three levels of government have administrative responsibilities for the program. This structure is further complicated by the interposition of inter- and intra-state regional offices.

The migrant education section of Title I has a number of distinctive features, including a provision for bypassing state education agencies unable or unwilling to serve migrant children, but it follows the general pattern of administrative responsibilities established for all Title I programs:¹

Office of Education

To carry out the Commissioner's obligations under the law, the Office of Education (USOE) is responsible for:

- Determining the funding allocations for eligible state education agencies (SEA's).
- Approving applications from state education agencies for participation in the program.
- Developing and disseminating regulations, program guides, and other materials affecting the administration of Title I.
- Monitoring state and local Title I programs.
- Providing consultative services to state education agencies.
- Compiling fiscal, statistical, and program reports for submission to Congress and use by the general public.
- Withholding funds from any state education agency which fails to fulfill its obligations under Title I.

¹U.S. Department of Health, Education and Welfare, Office of Education, *History of Title I ESEA*, Washington, D.C. Reprinted March 1973, pp. 1-2.

The Office of Education uses regulations, criteria, and program guides to inform state and local education officials of their responsibilities. The regulations are generally summaries of various parts of the Act but do not become effective until 30 days after publication in the *Federal Register*. The criteria are attempts to simplify and explain the regulations and are generally of two types: one is aimed at specific decisions on program design, implementation, and evaluation; and the other is aimed at gaining assurance from local education agencies that the priorities stipulated in the Act have been taken into account. Program guides provide basic information about such items as fiscal administration, evaluation, and planning requirements and how the legal requirements contained in the Act can be met.

State Education Agency

In many ways, the SEA has the same responsibility for local school districts with Title I programs that the USOE has for SEA programs. Among the SEA's responsibilities are:

- Administering the statewide Title I program.
- Compiling reports from information submitted by local school districts to forward to the USOE, in accordance with the law and regulations.
- Suballocating basic grant funds to eligible local education agencies.
- Assisting local school officials in the development of projects.
- Monitoring local projects.
- Approving proposed projects in compliance with Title I regulations and program guides.
- Maintaining fiscal records of all grant funds.

Local Education Agency

The local education agency (LEA) has the most direct responsibility for actual program operations, including:

- Identifying the educationally deprived children in low-income areas and determining their special needs.
- Designing and implementing projects, in accordance with Title I regulations and program guides, to meet the educational needs of such children.
- Submitting an application to the SEA for Title I funds.

- Maintaining fiscal records of all project funds and reporting to the State on the use of such funds.
- Maintaining fiscal effort with respect to total current expenditures for education and expenditures in project areas, being sure they are comparable to nonproject areas.
- Making information on Title I projects available to the public.

The original Act and its amendments set forth conditions for the use of Title I funds by a local education agency. The state is mandated to review each LEA's application to assure that conditions of the Act are followed. Among the conditions are that:¹

- The program is designed to meet the special educational needs of educationally deprived children in eligible attendance areas.
- The program has sufficient size, scope, and quality to give reasonable promise of meeting the children's needs.
- Control of Title I funds and title to property acquired with such funds will be in public agencies.
- Effective procedures for evaluation, including the use of appropriate objective measurements, have been adopted.
- The application, evaluation, and other pertinent documents are made available to parents and the general public.
- Parents are involved in the planning and operation of Title I projects.
- Funds are used to supplement, and not supplant, state and local funds that are available for the education of children being served.
- An annual evaluation report and other reports, as required, have been submitted to the SEA.
- Performance objectives are included in the project design.

¹ *History of Title I, ESEA*, p. 10.

The structure described above is complex in form and in allocation of responsibility and accountability. The fact that there are at least three levels of government administration involved in migrant education (federal, state, local) almost guarantees the existence of problems. Any one of the bureaucracies alone could, and often does, create serious problems simply because of its structure. With three bureaucracies, the problems are compounded exponentially. (We are using the term "bureaucracy" in its popular sense, that is, as a structure which impedes rather than enhances progress.)

The mass of paperwork required to make the system operate is so large and confusing, that at least one local administrator has decided against applying for migrant education funds solely on the basis that there are too many forms to fill out. The personnel, equipment, and space necessary to handle the paperwork add considerably to the costs of the program. While a rationale could be supplied for each form, regulation, guideline, etc., together they make an almost insurmountable obstacle to programs attempting to meet immediate and changing needs of migrant children.¹

At the federal level, the Migrant Programs Branch of USOE is charged, among other duties, with interpreting the law, issuing regulations, approving and evaluating state plans, providing technical assistance, and policing the proper use of federal money. The Migrant Programs Branch attempts to perform these duties with a total staff of eight professionals—a number woefully inadequate to meet the spirit of the law and to insure compliance. It is understandable, at least in part, that a good deal of staff time is spent on issuing directives, guidelines, and other requirements which conceivably could make up for the lack of field inspectors, evaluation teams and program specialists. Although funding of Title I Migrant Education programs has increased nearly tenfold since its inception, the federal Migrant Programs Branch professional staff has remained virtually the same size.

This staff, each year, in addition to its other duties, must review and approve or disapprove 50 state plans, each of which encompasses descriptions and evaluations of all of the local programs in that state. Congress has specified that state plans should "show evidence of real promise in making substantial progress toward achieving the purposes of the program in-

¹ An Oregon State legislator reported on the "bureaucratic nightmare" of a migrant family trying to enroll its children in a day-care center. He found that the parents had to: sign or fill out nine separate forms; drive 20 miles to fill out some of the forms; show proof of previous income; and wait up to ten days for final approval. The nine forms required 26 actions, 14 mailings and had to be handled by six staff people. (Hood River, Oregon, News, April 8, 1976.)

volved."¹ Congress expected that the state plans would be reviewed in detail each year to account for changing circumstances and that the actual state and local operations would reveal the extent to which the states have followed their plans. Thus, Congress did not intend that approval of state plans would be a *pro forma* procedure, or that package approval of the plans should take place. Each state plan is meant to "be reviewed separately and approved as a separate document."²

Unfortunately, because of shortage of staff, lack of a strong bargaining position, and/or a desire to maintain cordial relations with the states, the federal Migrant Programs Branch has not reviewed or been able to review state applications critically, nor has it determined to what extent the state objectives have been met. No state plan has ever been turned down, although a few have been delayed until suitable corrections were made.

Title I specifically provides that special programs like Migrant Education must receive 100 percent of the funds to which they are entitled first and that general programs under Title I must make do with the remainder.

However, Congress rarely appropriates enough money to adequately cover both migrant programs and the general Title I program, thus creating a situation which motivates Title I administrators to deemphasize the special programs in order to increase the general program's share of funds. In short, a rivalry is created between general Title I and the Title I Migrant Program. It is simply not in the interest of Title I administrators to pursue the much-needed broadening of identification and recruitment procedures for migrant children, because increased recruitment would further reduce general Title I funding. Similarly, it is not in the interest of these administrators to fully or properly staff the Migrant Programs Branch.

The result of this is not simply a staff of insufficient size and energy to cope with the many tasks assigned but, equally important, a ripple effect comes down to state and local administrators who frequently and quite logically believe that they will not be held accountable for any mismanagement. Thus state offices can often freely abuse required funding practices, file incorrect or incomplete information, route money to ineligible recipients, avoid evaluation, and generally repeat the same failures in leadership that are seen in the national office. This is not to say that all state and local administrators are guilty of mismanagement, but many are, and once the mismanagement continues unchecked for a year or two, it becomes institutionalized and violations of the original intent and spirit of the law flourish.

¹ Senate Report No. 634, 91st Congress, 2nd Session, (1970) p. 5.

² *Ibid.*

We do not mean to suggest here that inadequate staffing at the top, or inadequate funding throughout the program are in any way justifications for the failures and violations in the Title I Migrant Education program. Rather that these problems are one important part of an appalling neglect of a law written to help poor youngsters. The responsibility for this neglect may not always be traceable to any one group of individuals, but the responsibility for altering the situation is now at the very top—the Congress and the federal administrators—because the state and local entities have shown themselves, in far too many instances, to be incapable of or unwilling to follow the law and serve migrant children.

State migrant education programs are often caught between federal regulations regarding categorical funds and the local educational agencies' right to determine the kind of educational services they will provide. This situation is compounded by the bureaucratic structure of state education agencies and the placement of the migrant bureaus or officers in generally powerless positions in the decision-making chain.

Most state migrant agencies are merely channels for moving federal funds to the local programs, with little power to control the quantity and quality of services delivered to migrant children. Because they are generally loath to trample on local prerogatives, much of the work depends upon personal contacts with local educators, and the ability to coax, wheedle, and cajole them into appropriate action. Although mandated by the law to assure compliance, both federal and state administrators are caught between the conflicting and equally compelling domains of national directives and local autonomy. Many of them would rather fund poor programs than no programs at all.

Among the difficulties faced by administrators at all levels is defining just who is and who is not a migrant. Official definitions issued by various government agencies vary greatly, often leaving the interpretation to local officials who may or may not wish to provide good migrant education programs. This lack of agreement on the definition of a migrant also affects the ability of local and state programs to coordinate their activities with sending (home-base states) or receiving (areas traveled to) migrant programs; someone considered a migrant farm worker in one community might not be considered a migrant in another community.

Delays in funding local programs, stemming from the inordinate amount of paper work flowing in many different directions, often limit their ability to establish and operate needed programs. Delays at the federal level are compounded at the state level, with disheartening results for local programs which cannot effectively plan or staff projects based on present local needs.

Another difficulty inherent in a multi-tiered administrative structure is the lack of consistent and comparable evaluation standards. Within migrant education, evaluation of programs is generally conducted by the same people who are operating the programs. When local program evaluations are submitted to the states and then transmitted to the federal agency, there is literally no review or analysis made of the findings. This in turn, leads to re-funding of poorly run programs, poor educational continuity, and a cost-effectiveness ratio which is impossible to determine.

Federal officials who are supposed to disseminate reports on model programs and those elements in existing programs which appear to work well, cannot do an adequate job of reading and analyzing the evaluation and planning reports they receive from the states. What they do disseminate, therefore, probably reflects their own thinking as to what makes a "good" program, rather than the results of reviewing program documents.

Such factors illustrate the gross lack of responsibility and accountability at all levels of administration. Thus, state and local agencies often misuse or do not use at all the money available with little or no fear of being reprimanded. Money, earmarked for migrants, is used for equipment, staff, and services for nonmigrant students.

Compounding these problems is the tendency, when programs are not being properly run, to hide the facts from the public. Obtaining copies of reports, plans, evaluations, etc., was sometimes difficult for us, a national agency with some political influence; how much more difficult is it for a migrant parent with poor command of the language or little knowledge of how to circumvent bureaucratic delaying tactics?

The lack of appropriate training for teachers and paraprofessional aides working in migrant programs, the lack of emphasis on preschool programs as a measure to prevent migrant children's failure in school, and the lack of properly elected and trained Parent Advisory Councils for the migrant programs, are other shortcomings in the administration of migrant education.

Tying all of these problems together is the Migrant Student Record Transfer System (MSRTS), a computerized, nationwide network designed to provide up-to-date records to those schools which receive migrant students. The MSRTS is a paradigm of all that has been discussed so far. Data fed into the system is not standardized, so determining comparability between communities is almost impossible. Information from the system often arrives too late to do any good; many teachers and administrators resist the system so that either no information is provided or that which is provided is meaningless; confidentiality of migrant student records is abused; parents have little opportunity to see and/or change what is printed on tape; and local

administrators often ignore those identified as migrants by the system in their own communities.

These and other problems are the focus of this report. We will attempt to spell out in some detail how migrant children are being denied equal educational opportunity under the law. The format chosen to accomplish this is: to excerpt relevant portions of the Act using the language of the Act itself; to illustrate how the intent and letter of the law are being abused; to discuss, in part, why this is happening; and to make recommendations for improvement.

Special Educational Needs

122.(a)(1)(A) The Commissioner may approve ... an application (for a migrant education project) only upon his determination that payments will be used for programs and projects ... which are designed to meet the special educational needs of migratory children...

Perhaps more than any other this section epitomizes the intent of Congress in enacting the special legislation for the education of the children of migratory workers. That intent, signalled by the recognition that these children have *special* educational needs, should be evident to any personnel at whatever level of administration or service delivery, who are involved in migrant education programs resulting from the Act.

However, assessments of performance under the Act indicate that this most basic of concepts in the legislation is accorded little, if any, recognition by those responsible for implementing the Congressional directive.

The Department of Health, Education and Welfare's 1971 audit of the migrant education program in Texas,¹ which is fairly typical of the audit's findings in other states, declares: "Our review of applications submitted by 15 LEA's throughout the State showed that the needs identified in most of the applications were of a broad, general educational type and did not set out specific needs of migrant students."

The Exotech² findings three years later, summarizing activities in migrant education programs in 10 states, found:

"1. There is very little assessment done of the needs of migrant students as a group. Most assessment is of smaller, sub-groups of migrant students, usually at a local or state level.

"2. Needs assessment is not done on an on-going national basis."

In the time between the two studies there seems to have developed in educational circles an agreement to interpret the wording of the law as a requirement only that the reading, language and mathematics deficiencies of

¹ Audit Agency of the Department of Health, Education and Welfare, *Report on Audit of the Migrant Children Program Under Title I of the Elementary and Secondary Education Act of 1965 Administered by the State of Texas During the Period January 1, 1967, through August 31, 1970* (Audit Control No. 06-10135), June 21, 1971, p. 4.

² Exotech Systems Inc., Vol. I, p. 8.

migrant students be measured. This is a very limited definition of "special educational needs."

A broader definition would be based on recognition that a school setting, while attempting to combat the effects of poverty, can help to build and reinforce a positive self-image and to emphasize individual and group strengths. Yet all over the country migrant children are in classrooms where teachers do not speak their language or understand their culture, and where the walls are decorated with pictures of blonde, fashionably dressed, brief-case-carrying models. The Exotech study found there was little or no attempt to explore the migrant culture with students in migrant education programs to show them how their culture fits into the economic and social life of the United States.¹

Another element in a broader definition would be a more sympathetic recognition that more than 65 percent of migrant students need a bilingual educational experience. In addition to the practical benefits of fluency in two languages, bilingual education is an invaluable tool for helping a child develop a sense of identity and self-worth, a particularly pressing need among migrant children. However, many school systems now segregate the Spanish-speaking children, placing them in "slow-learner" tracks. Other schools teach English-as-a-Second-Language, but expect the Spanish-speaking child to attend regular classes conducted in English. In many programs for bilingual migrant children, where the mandate to recognize special needs can easily be subverted to justify such segregation, these practices are too easily countenanced.

In a truly bilingual setting the child should be taught by teachers and aides who speak English and Spanish, with courses taught in Spanish while English skills are being improved. But in many programs, like one NCLC observed in Collier County, Florida, 70 percent of the students were Spanish-speaking while only 20 percent of the staff could speak Spanish. The school was forcing the children to adjust to its needs, while it should have been adapting its program to meet the needs of the children.

Another significant and fairly obvious special educational need of migrant children is for programs designed to mitigate the effects of constant travel. The lack of national standards, compatible program models, and coordination of programs will be discussed in more detail later in this report. One aspect of this general need, the transfer of credits and other information, has received considerable attention and progress is being made, although the system in use is still far from adequate.

¹Exotech Systems Inc., Vol. III, p. 56.

Overall, it is fair to say that the Congressional intent that recognition be given to the special educational needs of migrant children has fallen victim to an insufficiency of leadership in the implementation of the legislation. The gaps exist from the Office of Education, down through the state agencies, and into the individual programs. Stronger measures than simply stating that programs receiving funding should be designed to meet special needs appear necessary if both the intent of the Congress and the requirements of migrant children are to be met.

Number of Migrant Children

122.(a)(3)(b) (In determining the number of migrant children) . . . the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

The Migrant Student Record Transfer System (MSRTS) is a computer system with a data base/headquarters in Little Rock, Arkansas, and teletype terminals scattered in more than 130 locations nationwide. Its principal intent is to contribute to the continuity of the migrant child's education by maintaining accurate school and health records and transmitting them to each new program the child enrolls in. Operating expenses for the MSRTS are covered by contributions of migrant education funds from all the states, proportional to each state's allocation.

The data base, in 1975, stored information for about 453,000 migrant students.¹ Since reliable figures on the number of migrant children are simply unavailable from other sources, the MSRTS total number of school-age migrant children is generally used. However, because of failures in recruitment and identification there are probably a great many eligible children who are not listed by MSRTS.

The system became fully operational in 1972 and the Education Amendments of 1974 (Public Law 93-380, enacted August 21, 1974) required that MSRTS be used in determining the number of migrant children for purposes of allocating migrant education funds. The data bank provides statistics on numbers and projected locations of enrolled children, and each state's migrant education budget is contingent on the number of children the state expects to serve. The amount of allocated funds, therefore, depends largely on the state's aggressiveness in recruiting and enrolling migrant children. While this can be construed as an incentive to engage in more active recruitment, it has not always had that effect: A General Accounting Office audit found, in 1975, that many schools were not enrolling as many migrant students as they could.²

Even the most conscientious local administrators have conflicts about

¹U.S. Office of Education.

²United States General Accounting Office, *Evaluation of the Migrant Student Record Transfer System*, Sept. 16, 1975, p. 7.

aggressive recruitment because of the inflexibility of the funding process. If children are recruited after the funding has been determined for the year, programs can receive no more money for the new enrollees and the money they have already received will have to be spread more thinly. Thus, in the eyes of the program administrator, although more children will be served, each one of them will be served less effectively. On the other hand, if more children are enrolled and added to the MSRTS list, they will be counted in computing the next fiscal year's allocation, thereby increasing future budgets.

A 1974 study of Title I Migrant programs¹ found that many eligible children were not being identified, therefore not served; two states studied by HEW's own audit agency were found to be unaware of numerous migrant children enrolled in local schools,² an administrative assistant with the Texas Education Agency, after working with MSRTS for six months, estimated that there were approximately 300,000 migrants in the state, although only 60,000 were listed in the data bank.

It is also true that being identified as eligible, and listed on the MSRTS, is no guarantee of receiving services. Many local administrators undertake no recruitment or outreach efforts, even when they know from MSRTS records that there are large numbers of eligible children in the area. In Texas, in 1974, more than 20,000 eligible migrant children listed on the MSRTS were not enrolled in migrant education projects,³ in 1976, two Florida counties with more than 10,000 eligible children listed on the MSRTS were serving fewer than 3,000,⁴ in New Jersey, a local principal decided not to apply for funds to serve the identified migrants in his district because there were too many forms to fill out.⁵

¹Exotech Systems Inc.

²Audit Agency of the Department of Health, Education and Welfare, *Report on Audit of the Administration of the Migrant Children Education Program* (Audit Control No. 13-33700) July 21, 1972, Appendix, p. 2.

³Audit Agency of the Department of Health, Education and Welfare, *Report on Follow-Up Review of the Migrant Children Program*, 1974.

⁴Information from NCLC field investigations, 1976.

⁵*Ibid.*

Transmittal of Records

122.(a)(1)(A) The Commissioner may approve . . . an application (for a migrant education project) only upon his determination that payments will be used (for) the transmittal of pertinent information with respect to school records of such children.

MSRTS entries are designed to include a child's name, birthplace, student number, school history, parental relationships, special interests, special programs attended, academic test scores, medical history and health problems. The school receiving a migrant child alerts the computer data base, and that child's record is then transmitted to the school through a local teletype terminal or by mail. In turn, the school adds any new information it has to the record when the child leaves or completes a program.

Experience thus far with MSRTS has revealed a number of major problems. First, there are no standard instructions as to what data is to be fed into the system, so each school enters data on whatever tests it normally uses. Because no standardized (statewide or nationwide) tests are used, results from one school or program may not be usable by the next school. In order to diagnose the child's academic progress and needs, each new school must retest the child, using its own preferred evaluation instrument.¹

As a result, although one of the primary purposes of MSRTS is to avoid duplication of services, the records of a single child may contain data from ten or twelve tests given over a brief period—all of which measure reading level. The wide variety of testing instruments and procedures in use, as well as frequent gaps in MSRTS records, lead to a situation where "some migrant students are pre-tested only, some are post-tested only, some are

¹The following is a partial list of tests currently or recently in use for migrant children: Otis-Lennon I.Q. Tests, Slossen Intelligence Test, Cooperative Tests of Basic Skills, Developmental Test of Visual-Motor Integration, General Information Test of the Peabody Individual Achievement Test, McMillan Readiness Test, Wide Range Achievement Test, Clymer-Barrett Test, Inventory of Readiness Skills, Scholastic Aptitude Test, Harper-Row Reading Test, Metropolitan Reading Test, California Achievement Test, Lee Clark Reading Readiness Test, Stanford Achievement Test, California Test of Basic Skills, Stanford Diagnostic Reading Test, Iowa Test of Basic Skills, Mental Ability Figure, Cooperation Sequential Test of Educational Progress, Peabody Picture Vocabulary, Virginia Criterion Reference Test.

never tested, and some are tested to exasperation."¹ For each child, several weeks in the next school or program may be spent repeating basic diagnostic procedures—a wasteful indulgence, destructive to the child, that could be prevented by an efficient, standardized, record-keeping system.

A certain amount of excessive testing (or even vaccinating) may be forced on local programs, however, because MSRTS records simply don't arrive. Teachers and administrators have found that a delay of two to four weeks is considered "acceptable" within the system. A delay of this length renders MSRTS data useless for summer programs which only last six or eight weeks. A 1975 federal audit² of migrant summer programs in Delaware, Virginia, and Maryland labelled MSRTS "virtually useless" in assisting those states to implement effective programs. By the time the programs were half over, only 48 percent of the students' records had been received. In Lake Mills, Wisconsin, in 1976, a seven-week summer program had received no records after three weeks of operation.³

If MSRTS is to accomplish its mission, it must provide information to all programs within a matter of days. Current delays not only cripple short-term programs, but lead regular schools to postpone effective planning indefinitely, while awaiting student records. In addition, the records themselves must be more accurate and comprehensive to be considered "pertinent" within the intent of the legislation. Many transcripts now arrive with no entries except the student's name and number. Teachers in many areas have resisted using MSRTS and so have contributed to the paucity of information on some students by refusing to retrieve system data or supplement records with new data. An information campaign and training effort of great magnitude is required if MSRTS is to gain the cooperation of all relevant school personnel.

The question of potential invasion of privacy of any student records has also been raised with respect to MSRTS. These records travel around the country, are seen by personnel in numerous locations, and are thus more vulnerable to abuses of confidentiality than records stored for years in a single school. The safeguards commonly employed for any student records are even more critically needed to protect migrant children and their families from misuse of MSRTS information. In addition, adequate procedures

¹ Exotech Systems Inc., Vol. I, p. 5.

² Audit Agency of the Department of Health, Education and Welfare, *Review of Migrant Education Summer Programs in Delaware, Maryland and Virginia* (Audit Control No. 50009-03), January 23, 1975.

³ Information from NCLC field investigations, 1976.

must be adopted for providing the parents of migrant students with access to their children's MSRTS data so that they may correct or remove information that is incomplete or inaccurate.

Eligibility

The USOE defines a currently migrant child as one who "...moved with his family from one school district to another during the past year in order that a parent or other member of his immediate family might secure employment in agriculture or in related food processing."

The USOE definition of migrancy has been found inadequate for determining eligibility in migrant education programs, largely because it contains no further definitions for either "agriculture" or "related food processing." Many states promulgate their own definitions, leading to problems for those migrant students who travel between states. The USOE definition also differs substantively from those used by other federal programs which can provide support services to migrants, such as the Department of Agriculture, the Migrant Health Programs, etc.

Vagueness in eligibility requirements can result in abuses like that in Aroostook County, Maine, where in May, 1976, a county recruiter for the migrant program stated that the "children of families who travel to livestock fairs for a week or more in the summer to display their farm animals are also eligible" to participate in migrant education programs.¹

The lack of uniformity in eligibility requirements has severely impeded the coordination of program efforts, both within migrant education programming and between this and other available services. If current resources designed to aid migrant children are ever to become truly available to those for whom they are intended, standard definitions must be adopted by all the agencies involved in providing services.

¹Wayne Reilly, "Migrant Education in Maine," (Bangor, Maine, *News*, May 4, 1976).

Duration of Eligibility

122.(a)(3) ... a migratory child ... shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by ... a program or project under this subsection.

Congress, in section 122(a)(3) quoted above, recognized that the effects of migrancy on a child's educational achievement are so devastating that they may not be expected to cease when migration ceases. Children who have been migrants are likely to be substantially behind their age-peers in school, and behind their grade-peers in academic success. The child who has "settled out," i.e., left the migrant stream, continues to require special assistance and therefore continues to be eligible for services under this legislation for five additional years. The USOE, in 1975, estimated the number of such children to be in excess of 275,000.¹

Congressional intent does not insure action, however, and five-year migrants have not been included in any year's funding base until planning the FY1977 budget. Local programs have been largely unable to extend services to these children because the programs were only funded for currently migratory children. Thus, parents who were considering settling out of the stream for all the potential benefits that geographic stability may offer have been faced with a singular problem: as far as their children's education is concerned they might be better off continuing to migrate.

It is hoped that intensive recruitment efforts will be launched so that five-year children, with the consent of their parents, can be identified and enrolled in programs that can help meet their special educational needs.

¹U.S. General Accounting Office, p. 13.

Manner of Funding

122.(a)(1) A state education agency ... shall be entitled to receive a grant for any fiscal year ... to establish or improve ... programs of education for migratory children of migratory agricultural workers...

The funding process, pursuant to federal regulation¹ generally follows this route: the Office of Education provides a grant to each State Educational Agency (SEA) for all of the programs to be held in that state, and the SEA's distribute the funds to each local education agency (LEA) or private agency directly administering a program.

For local programs a significant problem that occurs in this process is lateness of funding: delays at the federal level have damaging repercussions all the way down to the individual projects at the local level. Following notification of funding, localities should be allowed a reasonable period of time in which to recruit (and train, if necessary) the best possible staff and determine which program objectives can best be met with the amount of money available. Since local districts do not get interim planning time they are often forced to hire teachers with the understanding that their jobs depend on future funding and will be eliminated if funds are not forthcoming. Most teachers cannot afford to commit themselves to such a tenuous contract—they must be sure that they will have work in the coming semester or year. The result is that often the only staff members hired are teachers whose credentials are so questionable that they cannot get work elsewhere. The knowledge that programs may be cancelled at any moment has also discouraged capable people from pursuing specialized work in migrant education.

The Exotech study² found that uncertainty of funding was the major problem encountered in implementation of the migrant education program because of the limitations it places on staffing, general coordination among programs, and planning individual projects.

Compounding the problems caused by funding delays, is the inflexibility of state allocations once the federal funding level is finally determined. State agencies do not conduct periodic reviews of their cash positions in order to respond to changing needs at the local level. A district that is

¹20 U.S.C. 241c-2(a)(1).

²Exotech Systems Inc., Vol. III, Chapter X, p. 33.

funded for 75 children will not be able to receive additional monies if it is discovered that, in fact, 95 migrant children are currently in the area. Conversely, an area which receives fewer migrant children than it had planned for is not compelled to return extra money promptly so that it may be redistributed to areas receiving more children than planned for.

This rigidity in state disbursement has the effect of discouraging active recruitment of eligible children where a program has enrolled the number it has been allocated funds for. Such rigidity also ignores the single most obvious characteristic of migrancy: that children will be moving in unpredictable patterns.

Misapplication of Funds

141.(1)(3)(B) . . . funds made available under this title will be so used (i) as to supplement and . . . increase the level of funds that would . . . be made available from non-Federal sources . . . and (ii) in no case, as to supplant such funds from non-Federal sources.

Compliance with this section of the Act requires that equipment and staff that would normally be provided in a school (whether there is a migrant program or not) must not be paid for with migrant education funds. Since it is the responsibility of every local district to provide basic services to every child, and since Title I migrant monies are intended solely to *supplement* basic services to migrant children, migrant funds should be expended only for services or materials above and beyond those normally utilized by a school or program. But this mandate is often not followed. For example, a school in McAllen, Texas was in clear violation of the law when it charged librarian and nursing services to the migrant project while these services were provided to non-project schools by state and local funds.¹

The standard of "comparability" is used to determine the proper level of state and local expenditures: "State and local funds should be used to provide services in project areas that are comparable to the services provided in nonproject areas."²

Yet, in 1972, an eight-state audit revealed expenditures of \$300,000 of Migrant Education money for general nonmigrant educational purposes previously paid for by state and local funds.³

In addition to state and local school budgets, there are many other resources that can be tapped to provide supportive services of food, clothing, and health care so that migrant funds could directly benefit migrant children, reduce migrant program spending, and eliminate duplication of cost and effort. In Lake Mills, Wisconsin, more than one-quarter of the 1976 summer programs budget was spent on health and food costs, presumably because the program staff was simply unaware of the existence of Migrant

¹ Audit Agency of DHEW, June 21, 1971, p. 39.

² *Ibid.*

³ Audit Agency of DHEW, July 21, 1972, p. 7.

Health Clinics, and U.S. Department of Agriculture lunch and breakfast programs.¹

Probably the most serious administrative error on the part of local agencies is their failure to extend regular Title I services to the migrant child. Title I eligibility is based solely on financial need, and most migrant children qualify for assistance and are computed in the funding base. However, the Exotech study found that few states were taking advantage of this money: most directors of migrant programs interviewed had never even considered the use of regular Title I funds for migrant children as a possibility.²

The Congressional intent is clear. Special migrant education funding was to provide the child with assistance above and beyond, not instead of, that provided by Title I. Yet migrant program expenditures in fiscal years 1967-71 were over \$23 million for such items as food, health, and clothing—approximately 13 percent of each year's budget.³ By taking federal funds for migrant children at their full rate, but keeping programs' services to a minimum, local administrators can improve their schools by remodeling gymnasiums, constructing swimming pools, and purchasing new equipment. Custodial care for a school building should also be charged to the regular school budget. But in Collier County, Florida, Tolleson, Arizona, and San Benito, Texas, to name only a few, significant charges were made in the migrant budget for custodial care.

Specially targeted migrant funds are consistently used for providing services to nonmigrants: a 1972 audit⁴ found that one state had spent \$2 million—half of its appropriation from 1967 to 1971—on nonmigrants. In Texas, a 1971 audit⁵ found that from 32 to 36 percent of the children enrolled in preschool programs were nonmigrants, representing approximately \$88,000 in program funds. In 1975, a New Jersey program served 70 children, 53 of whom were subsequently identified as nonmigrants.⁶ In 1976, local people examining enrollment lists from a Florida preschool program estimated that well over half of the children were from local non-

¹From NCLC review of program documents, 1976.

²Exotech Systems Inc., Vol. I, p. 19.

³Audit Agency of DHEW, July 21, 1972, p. 6.

⁴*Ibid.*, Appendix, p. 1.

⁵Audit Agency of DHEW, June 21, 1971, p. 5.

⁶Information from NCLC field investigations, 1976.

migrant families.¹

Occasionally, the United States Office of Education has been able to recover funds where there have been gross violations of funding regulations. More often, however, violations are overlooked in the interest of maintaining harmony and good communication with the states, and the promise that abuses will be corrected is found acceptable. Education administrators at federal, state and local levels have established a friendly "club-house" atmosphere with their colleagues and overlook or dismiss as inconsequential charges of misuse of federal funds. But, unless and until the USOE decides to follow strict accountability procedures and cut off funds to those states and communities unwilling to comply with the regulations or to redirect the funds through agencies that will obey laws and regulations, migrant children will be denied their full educational opportunities.

¹Information from NCLC field investigations, 1976.

Program Coordination

122.(a)(1)(A) The Commissioner may approve ... an application (for a migrant education project) only upon his determination that payments will be used to coordinate these programs and projects with similar programs and projects in other States. . .

In one state, Learn and Earn vocational training for older migrant students is a highly successful program with a comprehensive network of support services, work experience, specific skill training, and good placement and follow-up procedures; in another state's Learn and Earn program, many of the teachers are unfamiliar with the skill areas they teach, support services are virtually nonexistent, and dropout rates run as high as 98 percent. In one state a high school student completes an intensive summer school course in biology; in the student's home-base state, her high school will not recognize the credit earned in the course and so she is not permitted to be graduated with the rest of her class. In one state, a high-school-age migrant youngster is welcomed into a new school and special efforts are made to provide the warmth and flexibility that will facilitate his growth; in another state he is met with a bill for \$57, the standard charge for his supply of dilapidated textbooks, and a "guidance counselor" who advises him to drop out of school. In one state a child with preschool experience enters a first-grade class with confidence and curiosity; in another state the school atmosphere is so frankly racist that the child, after one week, becomes a six-year-old dropout.

These examples, each of which was documented by NCLC in our research and field studies, illustrate the lack of a coherent national approach to the problems of educating migrant children. Programs are not communicating with each other and there is little leadership from USOE and state education directors to facilitate such communication. As a result, poor programs are perpetuated, good program elements are not disseminated for replication, and little effort is made to insure educational continuity.

Greater coordination at all levels should exist if the migrant education program is to succeed, but the impetus must come from USOE. The need for this direction was clearly expressed by the Congress in a 1966 Joint Report: "The Office (of Education) should exercise leadership in bringing States together to coordinate services and programs so that continuity of education of the children is achieved."¹

¹*Joint Report*, H.R. No. 1814, p. 10.

Model Programs

141(a)(10) . . . effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

Most migrant programs are developed and implemented entirely at the local level, and many of them are not successful in meeting the special educational needs of migrant children. Each time a locality decides to mount a program it must go through an information-gathering and assessing process that has already been completed in thousands of other schools. While exchanges of information do take place between local districts, they occur without benefit of aggressive leadership from the federal Migrant Programs Branch.

Every assessment of migrant programs that NCLC has seen has clearly stated the need for dissemination of model program elements, as have many State Migrant Education directors,¹ but the Migrant Programs Branch has remained unresponsive. The General Accounting Office, for instance, recommended in 1973 that the Office of Education provide information on the "best teaching methods, curricula and educational material"² to meet migrant children's special educational needs. This recommendation, which simply amounts to urging compliance with the law, has not been acted upon. Compiling and distributing information about existing programs that have demonstrated a high degree of success should be an ongoing accompaniment to the development of model programs.

Even in the absence of sound models, local programs could be dramatically improved through technical assistance from the state or federal offices. Dissemination of standard, but flexible, methods and materials would be an important step toward both eliminating duplication of effort and improving program quality. A thorough and responsible effort on the part of the Migrant Programs Branch could be expected to reduce cost per

¹Exotech Systems Inc.

²U.S. General Accounting Office, *Report to the Congress—Impact of Federal Programs to Improve the Living Conditions of Migrant and Other Seasonal Farmworkers*, February 6, 1973.

child in the long run by reducing the program development expenses that are now so often reflected in the per capita figures. This expectation is bolstered by the observation that there is now no detectable relationship between per capita expenditures and program quality.

Staff Training

141.(a)(12) In the case of projects involving the use of education aides, the local education agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together.

Though the tasks of paraprofessional aides vary from school to school and class to class, having an individual trained to supplement the activities and the knowledge of a teacher can be an invaluable asset. In many instances, the work of aides can mean significantly greater growth for a child. This is particularly so for migrant children, whose teachers often are not fully familiar with the children's cultural and family backgrounds, and (as in most classrooms) cannot take the time for individual attention when needed. At its best, the presence of aides in the migrant program classroom can greatly increase the amount of individual attention that students receive and provide a crucial link between home and school.

However, in this area of migrant education, as in so many others, lack of leadership is causing a wasteful and damaging underutilization of a valuable resource. Though paraprofessional aides are widely used in migrant programs, their training is frequently so inadequate that their usefulness is lost. Many aides are used simply as clerical workers or translators; others are forced, totally unprepared, to do all the "teaching" when it turns out that the language barrier between teacher and student is insurmountable.

Among the many instances of the misuse of paraprofessionals we observed was one in a Wisconsin program where a Spanish-speaking aide with no formal education of her own was struggling to teach biology, as well as other subjects, to Spanish-speaking children. The teacher spoke no Spanish at all and so was not able to provide the technical input which the children needed and to which they were entitled.

Many paraprofessional aides have indicated a desire for more training and/or a greater awareness of the objectives of the program they serve. If the aides are to be helpful in the classroom and in their relations with parents, the provision in the law requiring well-designed in-service training programs should be enforced. In addition to language proficiency and cultural background similar to that of the children served, as suggested by the U.S. Office of Civil Rights,¹ aides also need to know what their jobs are,

¹United States Office of Civil Rights, "Draft Memorandum re: Compliance with Title VII of the Civil Rights Act of 1964," December 3, 1975.

where limitations exist, and what is expected of them.

If equal educational services are to be provided to all minority children (including migrants) pursuant to Title 6 of the Civil Rights Act of 1964, paraprofessional aides should play a major role. If the Title I Migrant Education program is to succeed in facilitating equal educational services for migrant children, a revitalized effort should be made to upgrade training for these aides.

While the importance of paraprofessional aides cannot be overemphasized, the professional teacher still must shoulder the responsibility for success or failure in the classroom. Highly qualified teachers are, in the migrant program as in most educational programs, absolutely essential. In addition, migrant program teachers, like the professional aides, should have special training to assure sensitivity to the special pressures facing the migrant child.

Before being able to make a significant impact in improving skills, teachers of migrant children must be able to deal with the emotional needs of their students. Like other children, migrant children should be warmly accepted in the school environment if they are to be able to learn; unlike other children, migrant children do not come to the school anticipating such an environment. Past experiences for both the children and their parents have left migrants wary of school officials, teachers, and administrators. A special effort must therefore be made by migrant program teachers to make migrant children feel wanted and important. Two contrasting scenes which we observed serve to illustrate the point:

- The teacher spoke to the children equally easily in both Spanish and English, discussing with them the colors of various fruits. She asked how the fruits were picked, marketed and grown. The children were all migrants and were very familiar with these matters, so they clamored to tell the teacher their own experiences. I had never seen children so involved in the educational process. They were truly verbal, they were truly enjoying themselves, they were truly relating to the teacher.
- One little girl was such a good reader that she was regularly asked to read aloud to her whole congregation on Sundays. For all her apparent skills, however, she suddenly became upset about school and said that she didn't want to go anymore. It turned out that her teacher had told the child that she was

stupid, and had impressed it upon her with such vehemence that the child was convinced—and ceased to be able to read in school.

As in the case of paraprofessional aides, teachers must be given substantive training, as called for in the migrant education legislation, if the intended effort in migrant education is to take place and, more important, if it is to succeed.

Congress clearly recognized the importance of well-trained staff in the migrant education field, but for a variety of reasons the intent of the law has been widely ignored.

Preschool Programs

122.(a)(1)(D) ... provision will be made for the preschool educational needs of migratory children

...

A critical matter of focus in the migrant education program has yet to be resolved at the national level: are efforts to improve the educational opportunities of migrant children to be exclusively concentrated on corrective measures, or shall preventive steps be taken? The section of the law cited above indicates Congressional recognition of the value of preschool experiences, which enable the child to enter first grade with a greater readiness for academic work and with greater self-confidence. However, this section of the law also requires that compliance "not detract from the operation of programs and projects described in clause (A) of the paragraph." (Clause A contains the general mandate for programs to meet the special educational needs of migrant children.) The USOE has interpreted this section to mean that three- and four-year-old children cannot be served until all migrant students ages five to 17 are served. The practical effect of this policy is that there are not nearly enough full-year preschool programs to meet the needs of children and parents. Many educators have expressed concern over this interpretation; they interpret the section as requiring a preschool program precisely because it is a "special educational need" of the migrant child.

In 1975, the state of Florida reviewed data on over 1,600 migrant and non-migrant students and found that 32 percent of migrant children without preschool experience have to repeat the first grade; among nonmigrant children with no preschool experiences only 14 percent had to repeat first grade.¹ Thus, in their first year of school, many migrant children will begin the familiar early-dropout pattern of repeating grades until they are both substantially older and demonstrably less successful than their grade peers.

The Florida sample also found that of the migrant children who participated in preschool programs from the ages of three to five, not one had to repeat the first grade. Early childhood education and competent day-care appear critical to the future educational success of the migrant child.

The provision of day-care facilities for younger migrant children has

¹Dale Hilburn, Florida Department of Education, Testimony before the Subcommittee on Agricultural Labor of the House Committee on Education and Labor, December 5, 1975.

several benefits. The child is usually well cared for and has the benefit of being with other children. The parent is free to work without worry. Finally, Title I regulations permit the provision of day-care services to preschool migrant children when it can be demonstrated that these services would free school-age children from babysitting chores and enable them to attend education programs. A 1975 HEW audit of summer programs in three states found that day-care services were the most important factor in allowing many older children to attend educational programs, and recommended expansion of day-care for even greater effect.¹

A day-care center, like a preschool program, must be more than a babysitting service if it is to make a genuine contribution to meeting special educational needs. In addition to being responsive to the particular needs (time, location, etc.) of parents, it should provide child development activities that contribute to physical, emotional and intellectual growth. Day-care and early childhood education are powerful tools for providing the young migrant child with a head start on educational success, but they are not being utilized to their fullest. The U.S. Office of Education has demonstrated a reluctance to require these opportunities for migrant children, in favor of more costly later remedies for those older children who go unserved in their early years. To facilitate expanded services to younger children, paragraph (D) of the law should be rewritten to state clearly the obligation to serve preschool migrant children.

¹ Audit Agency of DHEW, January 23, 1975.

Program Evaluation

141.(a)(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs . . .

Each local agency running a migrant program is required by the law to evaluate its success by objective measurements, including tests, and transmit the data to the state agency, which must in turn transmit the data to the USOE. Since, in practice, the "effective procedures" have been left to the discretion of each program, there exists no systematic approach for evaluating the numerous and diverse migrant education programs and no way to compare their relative effectiveness. A wide variety of objective assessment mechanisms are employed from area to area, making comparison impossible. In addition, directly contrary to the law, subjective reporting is often exclusively relied upon to measure program effectiveness.

Program summaries, if received at all by higher-level administrators, are often incomplete or inaccurate, frequently have defects affecting the reliability of the data they contain, or lack any objective measures whatsoever. The deficiencies in program reports may help to explain why they generally have not been formally analyzed, or perhaps even read, by the USOE. HEW's audit agency, in its 1974 review of the migrant education program, found no evidence of attention to or examination of more than 1,600 project summaries which had been received since the previous audit.¹

The lack of responsible review leads to continuous abuses: One state, unnamed by the audit² was found to have awarded FY1971 contracts to 24 local agencies who had not yet submitted project evaluations for FY1970. In Texas, another audit³ found that there was no mechanism in existence to even determine whether local projects had been evaluated; an unevaluated program in McCallen, Texas, was granted a \$39,000 increase for the next year;⁴ one state director refused to allow agency staff to evaluate new

¹ Audit Agency of DHEW, *Report on Follow-Up Review of the Migrant Children Program*, 1974.

² Audit Agency of DHEW, July 21, 1972, p. 8.

³ Audit Agency of DHEW, June 21, 1971, p. 37.

⁴ *Ibid.* p. 36.

programs, and critical evaluations by state personnel were simply removed from the files.¹

Present accountability requirements appear to offer little incentive for honest, objective annual evaluations at the state or local level, and evaluations rarely receive any careful scrutiny at the federal level.

It should be noted here that the Migrant Programs Branch of the Office of Education is so inadequately staffed, because of interdepartmental competition for funds, that it cannot possibly conduct thorough program reviews or fulfill many other functions accorded it.² Clearly, any Congressional demand for competent program assessment by the USOE must be accompanied by a realistic appreciation of the budget and staff required for such an effort. With proper staffing, the Migrant Programs Branch could and should promulgate performance criteria to be utilized in monitoring and evaluating local programs.

At the local level, program monitoring should be separated from program operation—there are very few fields where data collection by service providers is considered the most accurate way of measuring effectiveness. Evaluations should be conducted by independent agents who have no stake in perpetuating any particular program. Truly objective assessment would have highly cost-effective results: only programs that genuinely meet the special educational needs of migrant children would be re-funded; ineffective programs would be weeded out or upgraded.

¹ Information from NCLC field interviews, 1976.

² The Migrant Programs Branch staff consists of five senior professionals, three junior professionals, and two clerical workers.

Bypassing a State

122.(a)(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children . . . or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this subsection . . .

This section of the Act provides an alternate funding route that may be followed by the USOE if it feels that any state is not adequately providing for the migrant children in its jurisdiction. It has never been utilized.

USOE's interpretation of this clause has been that, before the Commissioner can bypass the state education agency, all migrant programming in that state must have been found inadequate.¹ However, USOE, as has been repeatedly demonstrated by audits and studies of the entire migrant education program, does not evaluate state programs. If programs are not evaluated, they cannot be found incompetent; if they are not found incompetent, they cannot be bypassed. USOE policy insures that there is no mechanism for discrediting state operations and, therefore, there is no mechanism for circumventing them.

USOE policy also insures that there is little incentive for states to upgrade their migrant education programs, nor has any state ever been denied its program funding on the basis of poor program performance, fiscal mismanagement, or any other reason. Although instances of malfeasance have been repeatedly documented in state after state, the Office of Education has never entertained competitive bids for delivery of services to migrant children.

The states are less restricted in this area, frequently subcontracting with non-LEA's to provide services to migrant children. Such subcontracts do not always result in more efficient and economic administration, however, if they are awarded on the basis of considerations other than range and effectiveness of services.

The original contract for research and development of the Migrant Student Record Transfer System was a costly example of the pitfalls both in

¹Letter to NCLC from Richard L. Fairley, Director, Division of Education for the Disadvantaged, March 9, 1976.

USOE's refusal to deal with non-SEA's, and SEA casualness about fiscal responsibility. The contract, for \$426,150, was awarded to the Arkansas SEA, the contract price having been decided solely on the basis of available funds, with no assessment of the actual costs involved.¹ The Arkansas SEA did not have the facilities or expertise to accomplish the contract—a fact that USOE apparently had chosen to ignore—so most of the work, in the amount of \$324,650, was subcontracted to the University of Arkansas Medical School. The Medical School made a net profit of \$213,127 (191 percent) on the subcontract, having actually incurred costs of only \$111,523.²

The fact that states can choose to contract with non-LEA's for delivery of services might encourage increased excellence in the field if service deliverers upgraded projects to meet anticipated competition. This has not always been the case, however, because state directors are often accountable to no one for these decisions, and can award contracts on grounds other than evidence of potential or performance. In one state, in 1976, the Director of Migrant Education re-routed funding for a vocational program for older migrant children that was demonstrating a high degree of success at a relatively low cost in migrant funds by the simple expedient of utilizing available funds from other agencies. The program had been run by a non-profit agency, with high farmworker representation on its board. Re-routing its funding structure, from direct payment to payment through an LEA, drastically reduced the program's effectiveness and the number of people it could serve. There is no independent mechanism such as a farmworker organization or Parent Advisory Council at the state level to which an appeal can be made about arbitrary decisions. Nor is there recourse to the federal level since no effective evaluation takes place there.

The USOE and state directors are empowered to contract with non-profit agencies to provide programs for migrant children, and among the appropriate groups for this purpose are farmworker organizations. Such organizations may be more likely than most to understand their constituencies, and represent their unique needs. If they can also run good programs at lower cost than LEA's, as was the case with the vocational program mentioned above, then they should be utilized. Every administrative level of the migrant education program has an obligation to initiate programs that

¹ Audit Agency of the Department of Health, Education and Welfare, *Review of Contract Administration by the U.S.O.E. Relating to the Migrant Student Record Transfer System* (Audit Control No. 06-20087), November 12, 1971.

² *Ibid.*

not only meet the special educational needs of migrant children, but are also responsive to the financial limitations of the program and general standards of cost-effectiveness and efficiency. This is not being done.

Making Documents Public

141.(a)(8) That the local educational agency is making the application and all pertinent documents available to parents and other members of the general public . . .

For purposes of this study, NCLC reviewed program applications and summaries from all over the country, as well as audits, program reviews, assessments, test results, guidebooks, federal, state and local publications on migrant education, and other literature. With some notable exceptions, these documents were relatively accessible if the proper source for each item was identified (not always an easy task), and reasonable reproducing fees paid. We encountered a certain amount of bureaucratic obstructiveness but it was rarely insurmountable, since NCLC is a nationally known organization with established credentials in the field of migrant education. The exceptions were found primarily in New York and New Jersey, where administrators refused to provide evaluation data, and in Florida, where one evaluator denied that evaluation data existed in order to avoid producing it.

It was our conclusion that it would be significantly less easy for individual members of the general public (for instance, migrant parents) to find their way through the institutional morass surrounding these documents without experiencing a great deal of unnecessary frustration. In some areas, as well, parents in search of documents must deal with individuals in authority who are gratuitously obstructive because of their obvious prejudices.

Institutions dealing with culturally different and economically deprived constituencies have an obligation to be particularly responsive to those they serve. In communities that are unwelcoming, even hostile, migrant programs must be sure that every area of operation is completely open and accessible—encouraging thorough examination of the program and its records by migrant parents so that the project and staff may gain the confidence and cooperation of those they serve.

On this subject, the state of Texas must be dealt with separately: its current policy is so blatantly obstructive that it is likely that only legislative remedies will suffice to bring about compliance with the intent of the law. In response to a request for program documents, W.N. Kirby, Director of the Texas Education Agency's Division of Federal Funding, informed us that the rate for reproducing public documents is 55¢ per page—more than ten times the actual cost of duplication. Making documents available to migrant parents and the public is a high-profit industry in Texas, an industry

that is obviously designed to exclude most people from the workings of government.

Parent Involvement

Public Law 91-230 (1970) contains a general provision empowering the Commissioner to require parental involvement in programs he feels would be enhanced by such participation.

One of the greatest hardships a migrant child must face in a regular school program (or a poorly-run migrant program) is the enormous disparity between the school setting and the home setting, between school values and home values, and between school language and home language. Twice a day the child must move from one culture to a significantly different one.

For the nonmigrant child the transition is usually easier, school values reflect home values, the orderly processes of the school resemble those of the home, ideals of appearance, dress, punctuality, self-control, and language resemble the ideals presented in the home. If these values are not similar enough to lead to a smooth transition from home to school, the parents will often organize to change the school—such organization being a valuable tool of the enfranchised—or, in consultation with school officials, adapt the home environment to better reflect the school environment.

It is less easy for the disenfranchised to organize. Parents of migrant children are often unfamiliar and uncomfortable with the school. Their own, frequently very limited, school experiences have been hostile and unrewarding, their language may be different from that spoken in school, their culture is likely to be different from that of teachers and school administrators. Therefore, migrant parents rarely organize to alter institutions—if they choose to deal with the school, it is usually as individuals. That happens infrequently, however, because many parents believe that they will be treated with contempt by the school, that they will not be able to communicate with school personnel, or that any questions they ask or demands they make will result in some punishment for their children.

Home-school contacts are one of the weakest parts of migrant education programs. Parents who are involved in ESEA-mandated Advisory Councils are often not chosen by other parents—they are appointed by school administrators or project directors. In Arizona, one council consisted of parents who were unaware of their membership in the council, because they had been appointed, without discussion, after attending a showing of a movie about migrant education. Many councils lose any possibility of contact with their members by failing to send out home notices in Spanish as well as English.

An indication of how minimal parent involvement usually is was given

by the Exotech study.¹ Program Directors, when surveyed, reported that 84 percent of the local programs had parent involvement. Teachers in the same programs, however, responded that to their knowledge only 33 percent of the programs had such involvement.

Congress realized the significance of parental participation in the Title I (ESEA) legislation, and required local education agencies to create Parent Advisory Councils which would have significant input into the planning, operation and evaluation of the Title I programs. The councils are required to play a prominent role in developing projects, approving applications, and setting priorities. School authorities are required to provide them with access to appropriate program information, such as reports, applications, regulations, and evaluations. According to the legislation, council members must be chosen by other parents, not by school officials. The council must not only be properly constituted but must also be adequately prepared to perform its advisory function. To that end, training must be offered to council members unless an explanation of why such training is not necessary can be given. Title I applications cannot be approved unless they include descriptions of how the parents of the children to be served will be consulted and involved in planning and carrying out the project.

These provisions in the Title I legislation were not made specifically applicable to migrant education projects, but the Office of Education has the power to require parental involvement. In addition, ESEA Title I Program Guide No. 44 requires documented evidence that "the priority needs of educationally deprived children . . . were determined in consultation . . . with . . . parents."

NCLC recommends that the Congress make all funding of migrant education programs contingent on proof of active parent involvement. There should also be significant parent input at the regional and state levels—or at any level where educators and administrators meet to plan, coordinate, or evaluate migrant programs. The chain of accountability cannot become credible unless the Parent Advisory Councils are made an important link.

Local administrators sometimes use the transiency of parents as an excuse to exclude them from advisory participation in programs: forming and training a PAC takes time, and it may not always be possible to prepare a council before the migrants move on to another community. This is not a legally acceptable position, as, by law, a majority of council members must be parents of children currently in a project or expected to be in a proposed

¹Exotech Systems Inc.

project.¹ For high-turnover areas, however, parents may wish to consider choosing a minority of non-parent council members who can represent their interests on a continuous basis. Seasonal farmworkers who move in predictable patterns, or farmworker organizations that accurately reflect the thinking of migrant parents, can represent parents and children while lending continuity to the advisory process.

Active, creative, and innovative approaches in the recruitment of council members, particularly parents of migrant children, should be encouraged. Study after study has shown that migrant parents are concerned about their children's education, that they have aspirations for their children that include leaving the migrant stream and breaking out of the cycle of poverty through education. We believe that active and sensitively constructed outreach programs will find that parents welcome the chance to contribute to the quality of their children's education.

¹Public Law 93-380, Sec. 141(a)(14)(A).

CONCLUSION

It has been a full decade since the Congress of the United States formally recognized and tried to deal with the failures of our educational system with respect to the children of migrant farmworkers. The legislation—the migrant education amendments to Title I of the Elementary and Secondary Education Act—was carefully conceived and written. While its language is general, its intent, in most cases, could not be clearer.

The National Child Labor Committee hailed the legislation at the time, and we would do the same today. The problem is that the law is not being followed, that various arms of government have knowingly and unknowingly thwarted the legislative intent, and that the children who were to be the beneficiaries of the legislation are still being deprived of adequate educational opportunities.

The responsibility for this failure must rest on many shoulders: on the Congress for not seeing to it that its law is being followed; the Office of Education for not properly implementing the law and for not designing proper accountability procedures; the state and local education agencies for violating the spirit and, in many instances, the letter of the law.

Ideally the reporting of the facts in this book would be enough to effect change. But experience shows us that this will not happen; too many people, too many agencies, have a vested interest in maintaining the present situation. Therefore, the initial task of rectifying the situation, of seeing to it that a good piece of legislation is no longer subverted, must be performed by the source of the law itself—the Congress.

We believe that the Congress must, in the immediate future, hold hearings to a) verify the information we have reported, b) develop a plan for compliance with the law as written, and procedures to enforce such a plan, and c) amend the law, where necessary, to assure maximum service to migrant children.

The poverty, discrimination and lack of educational opportunity which impelled Congress to act—years ago—remain to a large extent unchanged today: not because the legislation did not work, but rather, we believe, because it has never had a chance to work. More than half a million migrant children remain the victims of a system which promised them hope.

There are promises to keep.

APPENDIX

ELEMENTARY AND SECONDARY EDUCATION ACT, TITLE I

Programs for Migratory Children

Sec. 122.(a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination-

(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1) (B) and (3) through (12) of section 141(a) (see below); and

(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or or migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agri-

cultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available

by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

Sec. 141.(a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish).

(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities).

(B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than \$2,500, except that the State educational agency may with respect to any applicant reduce the \$2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or \$2,000, whichever is greater;

(3) That (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July

1, 1972, and *Provided further*, That each local educational agency receiving funds under this title shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;

(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together.

Sec. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121 (Programs for Handicapped Children), 122 (Programs for Migratory Children), or 123 (Programs for Neglected or Delinquent Children) shall be equal to the total amount of the grant as computed under each such section.